

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

3. The petitioner claims that he filed applications for assistance in 1996, 1997, 1998, and 1999 but received no

decision on any of those applications and received no fuel assistance during any of those years. The petitioner did file a general "Statement of Need" in 1997 and 1998 in connection with a review of his Food Stamp and Medicaid benefits. He may have filed the same statement in 1996 but the records have been "purged" or destroyed because they are more than three years old. The petitioner did not file a "Statement of Need" in 1999 because he was not up for review that year.

4. On the two "Statement of Need" forms filed in 1997 and 1998, the first information requested from the petitioner was what programs of assistance he was applying for. All the programs were listed and he was required to check the applicable boxes. The petitioner checked the boxes next to Medicaid and Food Stamps but not the box next to Fuel in both 1997 and 1998. The petitioner went on to answer all other questions on the forms. Those included some questions that were to be answered for persons applying for certain specific benefits including questions regarding "Supplemental Fuel". Each question which said it related to "Supplemental Fuel" also related to at least one other program. The petitioner argues that he should have been deemed to apply because he answered these questions.

5. Prior to 1996, applications for fuel were made on the same comprehensive application used for all benefits. In 1996, however, a separate application was developed for fuel. Persons who indicated on the common forms (or orally) that they wished to apply for fuel were given that separate application. Because the Department had thousands of the old forms left, it crossed off the fuel portion on those applications and continued to use them for other programs. The petitioner says that the use of this old form made him believe he was making an application for fuel. He did not explain why he did not indicate that he was interested in fuel assistance on the forms in 1997 or 1998. He also could not explain why he felt he had applied in 1999 when he did not file a "Statement of Need" at all. He stated that he had not filed an application that year because he "did not think of it".

6. The petitioner is aware through his participation in other Department programs that he has a right to a written decision and to appeal any denial of benefits. He did not get such a written denial on his claimed applications for fuel assistance. Neither did he get any fuel benefits in any of those years. The petitioner did not, however, contact his worker or make any inquiry as to why he did not receive notice

or benefits during any of these fuel years. Nor did he file an appeal.

7. The petitioner made many statements that are inconsistent with his claim that he should be found to have filed applications for the years at issue. Among these are: his worker told him he could not file applications; the crossed out fuel sections on his applications prevented him from applying for fuel benefits; and, he got no notice from the Department that he could file an application for fuel assistance if he was a Section 8 renter. His eligibility worker countered that she has never told the petitioner or anyone else not to apply for any benefits, which assertion is found to be true. Because of the passage of time, the worker could not remember whether they had any conversations about his potential eligibility for fuel assistance. She does recall that during those years information was disseminated to the public about the availability of the fuel assistance program and the method for applying. During 1997 and 1998 mass mailings were sent to Food Stamp recipients advising them of the program and how they could apply. The Department submitted evidence showing that in the Fall of 1999 and 2000, six decisional notices sent to the petitioner contained information about the availability of the fuel program and the

method for applying. Those notices did not advise Section 8 renters that they were ineligible and should not apply. There is no evidence that the petitioner ever contacted the Department pursuant to these notices to file an official application or to discuss his eligibility for benefits.

ORDER

The Department's motion to dismiss this appeal for lack of jurisdiction is granted.

REASONS

Under rules governing proceedings before the Human Services Board:

Appeals from decision by the Department of Social Welfare [now PATH] . . . shall not be considered by the board unless the appellant has either mailed a request for fair hearing or clearly indicated that he or she wishes to present his or her case to a higher authority within 90 days from the date when his or her grievance arose.

Human Services Board
Fair Hearing Rule No. 1

The petitioner in this matter insists that he filed claims for fuel assistance benefits from 1996 through 1999. Assuming that this is true (and there is considerable evidence indicating that it is not), the petitioner was required to file an appeal within 90 days of the time his

grievance arose with regard to the requests for assistance. The fuel assistance season ends on April 30 of each year. W.A.M. 2907.4. Certainly by that time each year, the petitioner knew or should have known that he was not going to receive assistance from those requests. Under the Board's rules, the petitioner was required to file an appeal within 90 days of that time. The latest the petitioner could have filed such an appeal was July 31 of the year following his application. The last appeal for the 1999-2000 heating season should have been filed in this matter no later than July 31, 2000. The petitioner did not appeal any of the years until October of 2000.

The petitioner offered no explanation as to why his appeal was not filed at a more appropriate time. The problems inherent in accepting appeals of matters that occurred years ago was well illustrated during the hearing where pertinent documents had been destroyed due to age and the worker's memory was non-existent as to conversations she might have had with the petitioner from one to four years ago. The Department's motion to dismiss this matter as being untimely should be granted.

After the hearing, an advocate, who is not representing the petitioner, asked that the Board determine whether the

petitioner might have been eligible for benefits during those years under a settlement agreement approved by the Washington Superior Court in Murray v. Kitchel (No. 321-6-98, June 14, 1999). (Attached). That agreement awarded fuel benefits to persons in Section 8 housing who paid heat as a part of their rent and who had actually applied for fuel assistance during the 1997-1998 and 1998-1999 heating seasons and were denied benefits.¹

The petitioner was not included in the settlement by the Department because the Department had determined that he had not applied in either of those two years. It would be inappropriate for the Board to decide as a factual matter that the petitioner is or is not a member of the class covered in that agreement. That is for the Washington Superior Court to determine and the petitioner is encouraged to contact the attorneys of record in that case for assistance if he feels he should have been a part of that class.

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¹ This lawsuit indicates that many Section 8 renters were aware of the fuel program and did file applications for benefits during the 1997-1998 and 1998-1999 fuel season as the Department contends.